

**Amendments to the Drawings:**

The attached sheets of drawings include changes to Figs. 1, 4 and 5. These sheets, which include Figs. 1, 4 and 5, replace the original sheets including Figs. 1, 4 and 5.

Also, attached hereto, in accordance with the request in the Office Action, is an Annotated Sheet for amended Fig. 1. Figs. 4 and 5 do not warrant annotated sheets in that no changes have been made to these drawings other than translation of the German to English.

Fig. 1 has been labeled with a “prior art” legend and the primes “ ’ ” for reference numerals 33, 34 and 35 have been deleted.

## REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-3 and 5-8 were pending in this application. Claims 1-3, 6 and 7 have been amended hereby to correct minor matters of form. No substantive amendments have been made to the claims and no new matter has been entered. For the reasons set forth below, Applicants respectfully submit that all claims pending herein are in condition for allowance.

In the Office Action, the Examiner requested affirmation of a species election, and the drawings and specification were objected to. Further, with respect to the claims,

- Claims 6-7 were objected to;
- Claims 1-3 and 5-8 were rejected under 35 U.S.C. §112, second paragraph as being indefinite; and
- Claims 1-3 and 5-8 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2004/0053141 ("Pierrat") in view of U.S. Patent 6,558,853 ("Kawamura") and U.S. Patent 6,807,662 ("Toublan").

Also, claims 1-3 and 5-8 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of co-pending application No. 10/792,693 in combination with the prior art listed above.

To the extent any of these objections or grounds of rejection might again be applied to any parts of, or claims now pending in, this application it is respectfully traversed.

The objections to the drawings are addressed above in the Amendments to the Drawings section of this paper. Applicants have also made changes to the title and abstract, as well as to other portions of the specification, as set forth above. Reconsideration and withdrawal of the drawing and specification objections is respectfully requested.

**Affirmation of Election of Species**

Applicants hereby affirm the election of the alternating phase mask “species” for prosecution in this application. Claim 2 has been amended accordingly.

**Claim Objection and §112 rejection**

In response to the concerns raised in the Office Action, Applicants have amended the claims to address the several formal issues identified by the Examiner. Withdrawal of the objection and rejection is therefore respectfully requested.

**§103(a) rejections**

Applicants thank the Examiner for the thorough presentation in the Office Action of the prior art-based rejections. However, for the reasons detailed below, Applicants do not agree with the Examiner’s conclusion that the claims of the instant application would have been obvious to one of ordinary skill in the art over a combination of Pierrat, Kawamura and Toublan.

It is acknowledged in the Office Action that Pierrat fails to disclose key limitations of independent claim 1. For the deficiencies in Pierrat, the Office Action relies on Kawamura,

which shows an exposure mask for transcribing a desired pattern on a resist on a wafer in a photolithography step. This exposure mask is formed by the arrangement of transcribed pattern film formed in a desired pattern on a transparent substrate. In order to decrease background light, a dummy pattern film formed in a dummy pattern is arranged on the transparent substrate together with the transcribed pattern film. In order to illustrate differences with respect to a conventional photo mask, Kawamura compares a reticule "A" formed by arranging on the substrate only the transcribed pattern film and a reticule "B" on which a dummy pattern film formed in a dummy pattern is arranged together with the transcribed pattern film during printing on the substrate.

In view of the above, it should become clear that Kawamura does not perform a double exposure with the two reticules "A" and "B". Accordingly, a person skilled in the art would have no reason to isolate the dummy pattern of semi-transparent structural elements of Kawamura from the transcribed pattern film and include them in a second trim mask, as required by the claimed invention. Furthermore, and significantly, this would destroy the primary goal of Kawamura as the dummy pattern is intended to lower the background light such that a favorable resist profile can be obtained when printing the dummy pattern together with the transcribed pattern film.

Toublan does not overcome the deficiencies of Kawamura or Pierrat.

With the forgoing in mind, it appears that the Examiner has unreasonably combined fragments of different disclosures in order to arrive at the claimed invention. However, in this complex and sophisticated field of technology, it is improper to make such combinations unless

there is some suggestion in the prior art to do so. Consequently, Applicants respectfully submit that claim 1 is patentable over the prior art of record. Claims dependent on claim 1 are also believed allowable for at least the same reasons that claim 1 is believed allowable.

**Double Patenting rejection**

In response to the provisional obviousness-type double patenting rejection, submitted herewith is a terminal disclaimer disclaiming any term beyond the term of any patent that issues from co-pending application no. 10/792,693. Withdrawal of this rejection is accordingly respectfully requested.

In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

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Respectfully submitted by:

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